

BEFORE THE APPEALS BOARD

**FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

AMY BURROUGHS

Claimant

VS.

IBP, INC.

Respondent
Self-Insured

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)

Docket No. 170,497

ORDER

Respondent seeks review by the Workers Compensation Appeals Board of an order entered by Administrative Law Judge Floyd V. Palmer dated January 9, 1996. Board Member Gary M. Korte has disqualified himself from participating in this proceeding. Jeffrey K. Cooper has been appointed as Appeals Board Member Pro Tem to participate in this decision pursuant to K.S.A. 1995 Supp. 44-555c(i).

ISSUES

As a result of the hearing on December 15, 1995, the Administrative Law Judge granted claimant's request to reopen the record and extend terminal dates and further denied respondent's motion in limine and motion to quash the deposition of Monty Longacre. The respondent appeals and contends the Administrative Law Judge erred in denying its requests, extending the terminal dates, and reopening the record to allow the claimant to present additional evidence.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After a complete review of the file and the arguments presented by the parties in their briefs, the Appeals Board finds as follows:

Before the Appeals Board can address the merits of this appeal, it must first determine whether or not it has jurisdiction of the matter at this juncture of the proceeding. After a careful review of the record and the arguments of the parties contained in their briefs, the Appeals Board finds and concludes that it does not have jurisdiction to review this particular order.

The decision of the Administrative Law Judge denied Respondent's Motion in Limine and Motion to Quash the Deposition of Monty Longacre. It also granted claimant's Application to Reopen Claimant's Terminal Date. Thus, the Administrative Law Judge extended terminal dates and allowed claimant to reopen the record. The order is interlocutory in nature and made during the litigation of this workers compensation case. Respondent objects and appeals the Administrative Law Judge's order. This is not a final order that can be reviewed pursuant to K.S.A. 44-551, as amended by S.B. 649 (1996). Neither is this an order that came before the Administrative Law Judge pursuant to the preliminary hearing statute K.S.A. 44-534a, as amended by S.B. 649 (1996), as preliminary hearing orders are limited to issues of furnishing of medical treatment and payment of

temporary total disability compensation. The order now before the Appeals Board pertains to an interlocutory matter, an evidentiary ruling, over which the Administrative Law Judge has authority to adjudicate if called upon during a workers compensation proceeding.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Application for Review filed by the respondent herein should be, and is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of June 1996.

BOARD MEMBER PRO TEM _____

BOARD MEMBER _____

BOARD MEMBER _____

c: John L. Bryan, Topeka, KS
Tina M. Sabag, Dakota City, NB
Jeffrey K. Cooper, Topeka, Kansas
Floyd V. Palmer, Administrative Law Judge
Philip S. Harness, Director